

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MARK SHILLER,

Plaintiff,

V.

**SARPY COUNTY, a political
subdivision of the State of Nebraska,
and JEFF DAVIS, in his official
capacity as Sheriff of Sarpy County,**

Defendants.

CASE NO. 8:03CV365

ORDER ON MOTION IN LIMINE

This matter is before the Court on the Defendants' Motion in Limine to exclude evidence at trial (Filing No. 176). Defendant is seeking to exclude evidence from trial that it deems unfairly prejudicial to it. Motions in limine may be granted when the relevance and materiality of evidence is significantly outweighed by unfair prejudice and passion the evidence is likely to evoke.

Several items raised in the Defendants' motion are not in dispute according to the Plaintiff's responsive brief. The Plaintiff has indicated that he will not present evidence in his case-in-chief on several items included in the motion in limine. (Filing No. 186, pp. 2, 6, 8). With regard to these items, specifically identified in the order below, the motion will be granted.

With regard to those items that are in dispute, I conclude that the Defendants' motion should be denied. Having reviewed the parties' arguments, I do not find that any of the remaining items that the Defendants wish to exclude are so prejudicial to the Defendants that they must be excluded from evidence. This ruling does not preclude the Defendants from objecting to the evidence on other grounds such as hearsay and relevance as the evidence is offered at trial. The Court will deny the motion as it relates to 1) the process by which Shiller was removed as president of the union; 2) changes to

Sheriff Department policy after the lawsuit was filed; 3) comments made by former Sheriff Thomas about Shiller, including his conversations with Jeff Kilgore and Fred Bishop; 4) comments made by Greg London; 5) “rumors” heard by witnesses about which Shiller complained in the Attorney General letters; 6) testimony of Jeff Kilgore about the reasons for his decision to leave the Sarpy County Sheriff's Department; 7) testimony from Fred Bishop regarding his view of transfer to jail duty and his conversations with former Sheriff Thomas; and 8) Sergeant Brown's testimony about the fact that Lieutenant Zeeb informed him that he'd be assigned to jail duty for the rest of his life.

IT IS ORDERED:

The Defendant's Motion in Limine (Filing No. 176) is granted in part and denied in part as follows:

1. Part of the motion is granted based on the Plaintiff's representations that such evidence will not be used in the presentation of his case, including:
 - a. Evidence related to Captain Jackson's prior conduct including unauthorized use of gasoline from the County, ordering a coat for Sergeant Brown, and cashing checks from Gross High School;
 - b. Evidence regarding the lawsuit filed by Captain Jackson against the Plaintiff and Sergeant Brown;
 - c. Testimony from Roy Napora regarding Jeff Davis campaigning in 2002, and regarding disagreements Napora had with the Sarpy County Sheriff's Department relative to uniform allowances;
 - d. Testimony from Lane Pancha regarding complaints made in 2004 by him regarding Sarpy County, alleged harassment of him, complaints

about part-time work, rumors regarding Captain Jackson, and statements made to him by former Sheriff Thomas; and

- e. Testimony from Rebecca Cleveland regarding checks issued to Captain Jackson;

except that such matters may be introduced as rebuttal evidence subject to valid objection, and in such case, the Plaintiff is directed to notify counsel and the Court in advance of the offer of his intention to introduce the evidence for such purpose; and

- 2) The motion is denied with regard to all other evidentiary items listed in the motion.

Dated this 6th day of September, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge